



**Washington State
Hotel & Lodging
Association**

A Member of the American Hotel & Lodging Association

State Board of Health Public Meeting
Centralia, July 14, 2004
Comments: Transient Accommodations Rules Changes

Good morning. My name is Jan Simon. I am the Executive Vice President for the Washington State Hotel & Lodging Association (WSH&LA).

From its offices in Seattle, WSH&LA serves more than 600 lodging members representing more than 40,000 guest rooms across Washington State, and more than 110 allied members with products and services that support the lodging and tourism industry. The Association counts among its members: hotels, motels, inns, B&Bs, resorts, RV parks, campgrounds, boatels and condominiums of every size.

First I would like to thank the Transient Accommodations Division for its cooperation over the past several years, in negotiations and discussions regarding these proposed rules changes. We believe both parties have reached some conclusions, which will be very beneficial for the guests to our facilities.

However, there are areas of concern that remain. In addition to issues with some of the rules in the draft before you, many properties are telling us that the rules changes will significantly increase their cost of doing business. In a time of high unemployment, and an economy that is still sputtering through a recovery -especially for the travel industry- the cost increases from these new rules will mean more employee layoffs and business closures. Couple the impact on costs of the new rules with a more than 50% increase in the license fees just a year ago and the impact to small businesses -and 95% of the Transient Accommodations licensees are small businesses- will be profoundly detrimental.

While the rules have been scaled back from the original proposals, the increases will cause hardships on the industry's future operation, jobs and income. As we review the changes, and in our discussions with the Department throughout the rule-writing process, we still don't see that they are all necessary. We have had to focus throughout -and it still remains a concern with the most recent draft- that the rules are designed to ensure minimum levels of health and safety for the traveling public. The rules were never intended to cover every possible incident or eventuality. Many of the rules changes in the draft still are not necessary in order to correct or address anything other than anecdotes or potential issues.

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That stated, those proposed rules that cause industry greatest concern, which we ask to be considered and adjusted accordingly include:

- WAC 246-360-010 Definitions: The definition of Bed and Breakfast was changed in this most recent draft rule. Though we have worked with the TA Program for over two years, and reviewed almost a dozen drafts, this addition was made at the last moment. The definition in the proposal now includes:
“This type of facility may include food service operations for registered guests only.”

I will assume that the consequences of the addition of “for registered guests only” was unintentional – but the language is wholly unacceptable to the B&B establishments providing meals for overnight clientele and their invited guests, for wedding and anniversary parties, etc., the nature of which catering and overnight functions vary from B&B business.

These meals and/or catered functions are not only a source of revenue to the B&B, and an integral part of the service the facility provides, it is part and parcel of the business’s overall character. As one operator stated: “If we are no longer allowed to (serve food), our appeal as a property promoting friends and family will be diminished, and the special value that Bed and Breakfast Inns promote will be less attractive to this market.” This would be akin to directing a full service hotel to only provide food to registered guests.

Please note two emails from B&B owner/operators that underscore the need to strike this language.

- WAC 246-360-030 Responsibilities and rights—Licensee: (1) (i) The written basic emergency preparedness plan has created nervousness for small operators with few rooms who thought “Walk outside” or “Dial 911” would suffice. They are asking what form to use and how to go about it. These feel they lack the training and resources to develop these plans. Do grounds keepers have to be trained? Most importantly, we are concerned that the inspectors will go too far in their inspecting for this plan, and that interpretations by different inspectors as to what is acceptable will be varied and applied inconsistently. We would request it be stricken altogether. Larger properties already have such documents and training and smaller properties will be wise to adhere to the “walk outside” and “call 911 rule.” Remember: the TA licensees are not schools, hospitals, nursing homes, assisted living centers, and need not be treated as such.

On a positive note: In that same section, the survey/room inspection language has been replaced with, “(2) The licensee shall fully cooperate with the department in, and shall in no way impede, its administration and enforcement of the provisions of chapter 70.62 RCW and this chapter.” We view this change in a positive light and believe the Division has come a long way in resolving an access to inspection problem that would have resulted in a lawsuit because of violations with the laws regarding the DOH’s access to rented guest rooms.

Even with this change in the proposed rules, WSH&LA respectfully requests written documentation that DOH has rescinded policy number 02-007, Transient Accommodation Guest Room or Suite Inspection Access Policy, as this policy is in direct violation with the RCW 70.62.250. WSH&LA also requests documentation that all TA inspectors have been apprised that this policy has been nullified.

- WAC 246-360-080 Construction and maintenance: The previous building code language has been removed and requires operators to “Provide, upon request, documentation of compliance with WAC 246-360-080 (1) (b) and (c).” After calls around the state we’re certain that only a very few facilities can meet this requirement. Some have Certificates of Occupancy while others cannot meet that requirement because local jurisdictions treat this issue differently. One 100-year-old and a 50-year-old facility have expressed concern about this language because the only local document requirement they currently have is a business license. The letter I provided you from Beaverton Valley Farm B&B also addresses this issue. Again, the Department has not shown that there is any reason related to health and safety that would require such a document be provided.

We also ask how the Department’s proposed rules interface with RCW 19.27.050 Enforcement language, which says: “The state building code required by this chapter shall be enforced by the counties and cities.” We have asked in a number of the meetings with DOH, and we continue to argue that **building codes in effect at the time of construction and currently recognized at the local level as safe should be sufficient.**

- WAC 246-360-090 Lodging units: The posting of a unit occupancy level has been dropped but we wonder from the language if the licensee may still be expected to record that number at the desk or somewhere in writing. We would oppose such a requirement as wholly unnecessary. The rest of this section prescribes the egress measurements around beds and furniture. Occupancy and egress is a complex subject when you get into the temporary, rollaway bed requirements by traveling families. We have some uncertainties regarding the implementation this language – but understand that it is only anecdotal that hoteliers want to pack a guest room with guests. Hoteliers care about the state of their property and their guest rooms, and we feel that this level of micro-management will be unenforceable and is unnecessary.
- WAC 246-360-100 Bathrooms has raised the question of whether this language covers etched tubs? Some tubs are treated or etched to provide a slip resistant surface and thus would need no other devices. We request that be noted and accounted for in rule.
- WAC 246-360-160 Food and beverage services: The Department seems to require washing or sterilization of ice buckets while ignoring the use of plastic liners to serve the purpose of cleanliness. Also, we believe requiring employees to have basic food handling training (permits?) in order to deliver ice to a room is unnecessary.

- WAC 246-360-220 Fire Safety: This section has been CHANGED to require establishment and implementation of a written plan to ensure all 20 items of their fire safety section are covered....UNLESS “the licensee may maintain as a part of the facility’s written plan, evidence satisfactory to the department of current fire, life, and safety inspection conducted by the local fire jurisdiction.” We believe this is requiring a written plan where none was required previously. **This also is an unnecessary addition to local fire codes and inspections!** We more adamantly believe this is an onerous and unnecessary section given that facilities generally have more frequent, unannounced fire inspections than TA inspections!
- The remainder of the document language pertains to Rustic Resorts, which we understand are acceptable to that industry.

Also, we had the following general reactions to the Proposed Rules:

- The Significant Legislative Rules Analysis and Small Business Economic Impact Statement give the estimated costs for each change based on small and large facilities; but no aggregate cost to implement is given for an average property. I know at least one small property has written you to say it is cost prohibitive for him. The question becomes: How many more guest nights per year will I have to increase to pay for these new rules and how do I get them? Another property made an attempt at posting its comments on the web site. That owner’s concern is that they are full during the summer months and have almost no business during the winter months; so it will be almost impossible for his type of facility to increase business to pay for these changes. **Promulgating unnecessary rules will result in unnecessary staff layoffs and business closures.**
- Relative to meth labs, do hotels have to pay the \$6,500 cost of a meth cleanup or the \$1,200 for the follow-up inspection? This is a tremendous cost to lodging operators, who have no knowledge of the illegal action until it is too late and they have to evacuate the premises and remain closed until the cleanup is completed. The cost of the clean up should not be specified; rather the end result (a facility that is free from chemical contamination) should be required.
- The “unit beds” versus occupancy issue still seems convoluted; but that may have been taken care of with the “temporary bed” language. We would like to hear some comments from the Division regarding that.
- DOH states it will refer fire code problems to the appropriate fire jurisdiction. Is this a change in procedure? How do you resolve your inspector’s conclusion versus a different conclusion by the fire inspector?

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- Hoteliers will need to train personnel regarding the new written fire code plan if it is adopted. This seems to preempt local fire department jurisdiction. And, I don't believe any cost was calculated for that change, which could be significant.
- Finally, we have had several comments from operators regarding emergency lighting for guests in the event of a power outage. One property owner said it would be cost prohibitive for him while another stated, "Not all properties have emergency backup power nor do they have or can afford battery operated lighting for guest rooms." Would this mean a flashlight and fresh batteries be kept on hand at the front desk for each unit year round?

In closing, the lodging industry has been hard hit by a soft economy and has had to reduce its prices even while its room occupancy dropped. WSH&LA is actively engaged in promoting Washington State as a tourism destination to help this situation and business is slowly improving, though recent terrorist alerts will only hamper the recovery. And still, Washington's lodging and tourism industry lags behind the rest of the country. Please understand that vacant rooms, decreased pricing of guest rooms, increased government regulation, taxes and fees mean significant layoffs, salary and benefits cuts, and leaner contributions to the state and local tax base.

While business and profits have moved downward, state government fees, taxes and rules requiring greater expenditures have continued to soar upward. During 2003 our state taxes and fees almost doubled. The year 2004 was not much better as minimum wage, workers' compensation and unemployment insurance increases went into effect. Any new costs dictated by new regulations must be taken from any profits or by cuts in service, maintenance, employees and benefits. It should be no surprise that businesses and jobs are leaving Washington or closing their doors due to bankruptcy under the burden of increased taxes, fees and regulations!

Our commitment is to keep Washington working, keep our valued employees on the payroll, grow the number of tourists to the state, and give our guests a taste of the warm hospitality for which Washington is known.

Thank you for the opportunity to give you our thoughts today.

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